

### **REMARKS/ARGUMENTS**

This amendment is in response to the office action dated June 5, 2003. A petition for a three month extension of time and appropriate fee accompany this response. Remarks regarding specific sections of the office action are presented below.

#### **Allowable Subject Matter**

Applicants gratefully acknowledge the indication in the last action that claims 15 and 19 define allowable subject matter. Claim 15 has been rewritten in independent form, incorporating the limitations of claims 13 and 14. Claims 15 and 19 are now believed to be in condition for allowance.

#### **Claim Rejections - 35 U.S.C. §102**

In the action, claims 13 and 14 were rejected as anticipated by U.S. patent 4,425,908. With this amendment, claims 13 and 14 have been cancelled without prejudice. The subject matter of claims 13 and 14 have been added to claims 15 and 16 which are now presented in independent form.

#### **Claim Rejections - 35 U.S.C. §103**

In the action, claims 16-18 were rejected as obvious over U.S. patent 4,425,908 (Simon) in view of U.S. patent 5,853,420 (Chevillon et al.). Applicants traverse the obviousness rejection for two reasons.

First, there is no motivation to combine Simon and Chevillon. In the action it was stated that it would have been obvious to one of ordinary skill in the art to make enlarged spline-grooves secured to the pusher wire 80 so as to keep the Simon filter arms 22 in place during deployment. However, the Simon patent addresses the problem of filter arms becoming tangled during deployment and the filter is designed to avoid the problem altogether. Specifically, at col. 7, lines 8-12 of the Simon patent, it is stated:

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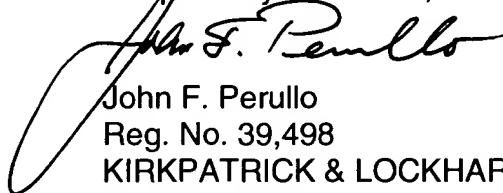
"The six legs 22 are slightly different lengths to permit good packing within the delivery device, as will be described; if legs 22 are all of a single length, the hooks may interfere with one another so that the filter does not expand properly when delivered into the vein."

Accordingly, with Simon's design of the filter legs of different lengths, the spline of Chevillon would not needed to keep the legs in place during delivery.

The second basis for traversing the obviousness rejection is, even if the references were properly combinable, the Chevillon patent fails to disclose the spline structure recited in applicants' claims 16-18. Specifically, Chevillon discloses an outer sleeve 5 having notches 25 in the form of slots on its interior surface that receive the extensions 15 of the filter. However, claim 16 defines a spline having an outer surface provided with a plurality of spaced grooves to receive elongated appendages of the filter that are positioned over it. Accordingly, where Chevillon is directed to a sleeve with interior grooves through which the filter slides and applicants' claims are directed to an exterior grooved spline that holds filter legs on its exterior surface, Chevillon should not be considered to disclose the claimed arrangement of the spline and the obviousness rejection should be withdrawn. Reconsideration of the rejection of claims 16-18 is requested.

In view of the foregoing amendments and explanatory remarks, claims 14-19 are believed to be in condition for allowance and such action is earnestly solicited.

Respectfully submitted,



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